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SENSITIVE
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SUBJECT: LIBERIA PASSES LONG-AWAITED PUBLIC FINANCIAL MANAGEMENT ACT

REF: 08 MONROVIA 891

(SBU) SUMMARY: The National Legislature passed the much-anticipated Public Financial Management Act August 20, nearly a year after the Ministry of Finance (MOF) first submitted a draft. Although Liberia's HIPC Initiative debt restructuring requires the GOL to implement the act for one year, concerns that the legislative bottleneck would postpone Completion Point beyond 2009 may be unwarranted. The International Monetary Fund, cognizant of both the Legislature's notorious delays and the Executive branch's fulfillment of the spirit of public financial management reform, has signaled its intention to apply a liberal interpretation of that benchmark to ensure irrevocable debt forgiveness by year's end. Post believes it may be counterproductive to push a premature HIPC Completion Point, but if the IMF does chose to accelerate the process, the following staff-monitored program should entail strict monitoring. END SUMMARY.

## Who Controls the National Purse?

¶2. (SBU) The Ministry of Finance, with assistance from the International Monetary Fund, began drafting the Public Financial Management Act in 2007, and submitted it to the National Legislature on August 28, 2008 (reftel). The Paris Club, International Financial Institutions, domestic fiscal hawks and President Sirleaf actively lobbied for swift passage of the draft law, which outlined procedures for preparation, adoption, and execution of the national budget. Indeed, the stakes were high and the timeline short: the GOL's Poverty Reduction Strategy identified the PFM Act as a key deliverable, and the Highly Indebted Poor Country (HIPC) Initiative requires Liberia to implement the law for one year in order to receive irrevocable forgiveness on the remaining $1.9 billion in external debt. Yet despite the Act's importance, the Act failed to make it onto the 2008 legislative agenda, languished in committee, and only passed on August 20 in the waning days of the 2009 session.

¶3. (SBU) Blamoh Nelson, co-chairman of the Senate Ways, Means, Budget and Finance Committee, and leader of a joint House and Senate committee created to review the draft act, defended his colleagues' lengthy deliberations. He conceded few legislators understood the HIPC process or the consequent costs of their delay until President Sirleaf herself summoned the joint committee to the Executive Mansion for a briefing on the Paris Club, HIPC and the productive or obstructive role they might play in debt forgiveness.

¶4. (SBU) Yet even as the committee came to understand their role in the responsible management of public finances, they hoped to recast the draft act to retain primacy over fiscal affairs - a mandate they believe the Liberian Constitution grants the Legislature, and not the Ministry of Finance. Unable to resist a HIPC mandate, the Legislature already had conceded to MOF's absorption of the Bureau

of the Budget.  Indisposed to accept further territorial erosion, they resented the PFM Act's explicit vision of a super-Finance Ministry that would preside over budget creation, revenue collection, expenditure and debt management and economic analysis.

¶5. (SBU) The Legislature further questioned the absence of measures strengthening legislative and executive authority over state-owned enterprises.  Historically, revenue-generating agencies such as the Liberian Petroleum Refining Company and the Bureau of Maritime Affairs operated outside the budgetary process and were permitted to retain surplus earnings - reducing government revenues and oversight, and facilitating widespread fraud.  The joint committee, with assistance from the General Auditing Commission, introduced robust amendments requiring the refund of surplus funds from SOEs to a single GOL account known as the Consolidated Fund.  Additional legislative amendments to the final version included a stronger system for registering and tracking government assets for audit purposes, and the placement of internal auditors within each ministry.

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The Compromise PFM Act
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¶6. (U) The final version of the PFM Act provides the legal basis for comprehensive reform of Liberia's public finances, empowers the MOF to create implementing regulations that will improve revenue collection, strengthen auditing and enforcement, streamline onerous procedures imposed upon tax payers, tighten internal controls within the ministries that spend money, and establish transparent procedures for debt management and reporting.  However, it also



concedes authority to the Legislature for budgetary review and notably constrains the revenue and operational autonomy of state-owned enterprises.  The Act applies to all GOL institutions, agencies and entities, targeting five broad areas:

-- Budget Preparation and Approval: strengthens the links between economic and development policy priorities and the budget process, calls for three-year forecasts of revenue and expenditure, specifies the format and timeline for submission of the MOF's draft budget to the Legislature and release to the public, and outlines the Legislature's rights and responsibilities for modification and approval of the budget.

-- Budget Execution: provides legal mandates to control commitments against appropriations, limits the amount that may be transferred between line items, and requires annual procurement and spending plans for each ministry and spending agency.

-- Debt Management: requires that all proceeds from government borrowing be credited to the Consolidated Fund, stipulates that debt service payments are among the first claims on resources, and requires the publication of a debt management strategy and the bi-annual submission of reports on new borrowing.  The PFM Act also establishes a Debt Management Committee (composed of the Ministers of Finance and Justice, the Governor of the Central Bank, and two other presidential appointees) that must approve all central government loan agreements or contracts that impose contingent financial liabilities upon the government.

-- Accounting, Reporting and Auditing: mandates quarterly public reports and internal audits for all agencies, requires publication of the general budget and annual external audits of the final accounts.  The law also requires that the budget include separate annexes on foreign grants and loans.

-- Oversight of State-Owned Enterprises: requires SOEs and autonomous agencies to submit draft budgets and strategic plans to the Minister of Finance for approval, compels SOEs to petition the Debt Management Board prior to contracting debt, and directs SOEs to disburse all surplus money to the Consolidated Fund at the conclusion of the fiscal year.

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HIPC Completion Point: Still on Track?
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¶7. (SBU) Despite fears that legislative wrangling would stymie the MOF's adamant and very public determination to reach HIPC Completion Point by the end of 2009, the International Monetary Fund appears ready to assent to a generous interpretation of the trigger that Liberia "implement" for one year both the PFM law and supporting financial regulations. Alexander Deline, senior economist for the IMF in Liberia, said the Liberian Executive Director Samuel Itam has argued persuasively that the 2009/2010 budget process embodied the spirit of the PFM Act. Deline believes political pressure from donors eager to support Liberia would make a delay past 2009 untenable.

¶8. (SBU) In fact, Yuri Sobolev, the new Resident Representative in Liberia, conceded that the IMF had permitted President Sirleaf to interview him concerning his views on Completion Point. Only after he assured her of his commitment to an end-2009 timeline did she assent to his appointment as ResRep.

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Comment
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¶9. (SBU) The passage of the PFM Act should empower the MOF to continue its admirable progress toward a tightly controlled and transparent budget process. The PFM Act is also welcome as the Governance and Economic Assistance Program (GEMAP) will end in October, and GEMAP technical advisors will no longer have co-signing authority at SOEs, the only check against questionable expenditures in the early years of the Sirleaf administration. As public financial management continues to improve, budget support from the donors is expected to increase, enabling the GOL and donors to better coordinate resource allocation.

¶10. (SBU) The GOL continues to demonstrate its commitment to a post-HIPC regime of fiscal prudence and cautious debt management, but the IMF's vocal willingness to push Completion Point this year may be counterproductive, given that impending debt forgiveness constitutes the GOL's most compelling impetus for reform. To that end, post will continue to press the GOL to move forward not only with PFM implementation, but with other HIPC-mandated reforms that



are behind schedule, including external audits of key ministries, the development of an active Anti-Corruption Commission, and the rollout of a new debt management strategy.

¶11. (SBU) It appears that Secretary Clinton's address to the Liberian Legislature August 13 may have had some effect, as legislators now seem intent on passing key legislation before they recess. However, if the Legislature is to become a responsible interlocutor in the budget process, it needs both training for its members and a staff or technocratic experts capable of independent budget analysis. Ongoing support provided by both the House Democracy Assistance Committee and USAID (through the National Democratic Institute) is welcome. Now that the PFM Act is signed, there also is an opportunity for NDI to help support the budget committee's vision of a Legislative Budget Office. A peevish Legislature that feels relegated from the budget process may willfully delay MOF priorities or renew oft-threatened efforts to spin off the revenue function into an autonomous agency that resembles the Internal Revenue Service.

¶12. (SBU) Post recognizes that political imperatives may make an end-2009 HIPC Completion Point inevitable. Indeed, both the MOF and Legislature have demonstrated laudable progress in exercising responsibly their respective roles in public financial management. However, we are concerned that a premature Completion Point would not give Liberia the time to institutionalize its promising track record of reform. One way to address this concern would be for the IMF's staff-monitored program to reinforce continued PFM reforms and restrict new borrowing to sectors that offer strong employment prospects and contribute to Liberia's economic recovery.